

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA;	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO. 2:19-CV-4601
	)	
EPCON COMMUNITIES, LLC and EPCON	)	
COMMUNITIES FRANCHISING, INC.;	)	
	)	
	)	
Defendants.	)	
_____	)	

**DEFENDANTS' CONSENT ORDER REPORT**

Pursuant to Paragraph 67 of the Consent Order entered by the Court (ECF 9), Defendants submit this report to the Court describing the unmet obligations and their proposed completion date.

The Consent Order was entered in this case on March 25, 2020. The Order provided that it would remain in effect for three (3) years following the date of entry, or until all of the actions required of Defendants in the Consent Order were completed, whichever is later. (ECF 9 at ¶ 67). Defendants have met the obligations imposed on them by the Consent Order except some of the obligations imposed by Section VII with regard to completing the retrofits at the Subject Properties. Specifically, Defendants have met the following obligations imposed by Section VII (Paragraphs 17-37):

1. Defendants have established an escrow, deposited the Two Million Two Hundred Thousand Dollars (\$2,200,000.00) into said account, and provided the United States proof of the same as required by Paragraphs 19-20;

2. Defendants have distributed to each homeowners association of the Subject Properties a notice substantially equivalent to Appendix C of the Consent Order informing it that the Defendants have agreed to make certain retrofits to the public and/or common use areas as required by this Order and requesting permission to enter the property to survey the property and develop a concept plan of what specific retrofits may be made to the property and certified the same to the United States as required by Paragraph 22;

3. Defendants have distributed to the United States for approval a copy of the concept plan for retrofitting the public and common use area at the Subject Properties for those properties who have expressed an interest in retrofits and the United States has met its obligations regarding the same as required by Paragraph 23;

4. No individual homeowner of a covered dwelling unit has requested retrofits to his or her unit pursuant to Paragraph 28 so Defendant has had no obligation arise under Paragraph 28.

Defendants, however, have not met the requirements found in Section VII that imposed obligations for completing and inspecting retrofits at the Subject Properties. Defendants have been unable to meet these obligations because, among other things, of the COVID-19 pandemic and difficulty securing a contractor who is willing to bid on completing the retrofits at some of the communities. Defendants have identified only one contractor willing to complete the retrofits. That contractor is set to begin the retrofits at Wood at Sugar Run, a Phase 1, corporate property listed in Appendix A. Defendants are confident this contractor will perform the work as required under the

Consent Order for this property and Defendants will be able to use it as the contractor for a number of the remainder of the retrofits.

With the number of Subject Properties left to retrofit, Defendants believe they can complete the retrofit obligations that remain under the Consent Order within two (2) years of the date of this Report.

Defendants have shared this report with the United States and the United States has consented to the submission of this Report.

Defendants will provide a report to the Court no later than six (6) months from the date of this report to update the Court on its progress of meeting the unmet obligations described herein as required by Paragraph 67 of the Consent Order.

Dated this 27th day of March, 2023

EPCON COMMUNITIES, LLC; EPCON  
COMMUNITIES FRANCHISING,  
INC., Defendants,

By: /s/Scott P. Moore

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### **CERTIFICATE OF SERVICE**

I hereby certify that on March 27, 2023, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Matthew J. Horwitz  
Sara Niles

and I hereby certify that I have emailed and mailed by United States Postal Service the document to the following CM/ECF participants:

/s/ James E. Arnold

James E. Arnold